IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 238 OF 2001

Sadhuram Lachhmandas Makhija .. Petitioner.

vs.

State of Maharashtra & Anr. .. Respondents.

None for Petitioner.

Smt. S.D. Shinde, APP for State.

CORAM : J.N. PATEL, AND

SMT. ROSHAN DALVI, JJ.

DATE : 28th September, 2006.

P.C.

. None for the petitioner.

2. The petitioner has filed this petition seeking direction from this Court against the 2nd respondent to register an FIR on the basis of the written complaint dated 22.3.99 made by him to the respondent and further to direct the investigation of the complaint to be made by the Crime Branch.

3. It is the case of the petitioner that he lodged complaint in writing to the Senior Inspector of Police, Central Police Station, Ulhasnagar on

22.3.99 relating to abuse, insult and assault by the respondent with threat of dire consequences and implication in false cases, kidnapping, unlawful restraint and so on. The complaint discloses that the incident took place inside the office of the Ulhasnagar Municipal Corporation in front of the office of P.A. to the Commissioner of Ulhasnagar Municipal Corporation from where the petitioner was abducted in car bearing No. MH-4177 to a place known as Radha Apartment and from there he was brought back and left at the office of the Municipal Corporation. It is the case of the petitioner that while he was taken to Radha Apartment in the premises where the business of Radha Wines is conducted, the respondents abused him in filthy language, threatened him with dire consequences and one of the security guards of the respondent hit him with gun and so on. As the complaint was not attended by the Senior Inspector of Police, the petitioner forwarded the complaint to the Commissioner of Police, Thane, Home Department as well as to the National Human Rights Commission. In the affidavit in reply filed by Vishnu Rambhau Mane, the Police Inspector (Crime) attached to Central Police Station, Ulhasnagar he has stated that they have conducted a preliminary enquiry. As they did not find any substance in the complaint lodged by the petitioner and on preliminary enquiry they found that the petitioner was occupying a plot of land

admeasuring 7000 sq. mts., belonging to the Government and he intended to sell the same to Godhu Krishnani and as Godhu Krishnani lodged a complaint against the petitioner in the matter, the Government took possession of the plot and allotted the same to the Telephone department and for this reason the petitioner had a grudge against the said Godhu Krishnani. In the course of enquiry Police Inspector (Crime) has recorded statements of witnesses and found that they had a quarrel in the office of Mahanagar Palika and the security guards assigned to Godhu Krishnani intervened in the quarrel and separated them and pacified the petitioner and Godhu Krishnani. The petitioner himself accompanied Godhu Krishnani to have tea in his office at Dasara Maidan, Ulhasnagar and thereafter he was dropped at the office of the Municipal Corporation and for these reasons, as no cognizable offence was made out, the respondents did not register any FIR.

4. There is no affidavit in rejoinder filed by the petitioner to this reply. Further, except for the complaint, there is no other documents placed on record to substantiate the complaint of the petitioner that he was assaulted by a gun. Therefore, there is no reason why this Court should not believe the findings arrived at by the respondents in the preliminary enquiry conducted by

the respondents. On the one hand, what is revealed before this Court is that the petitioner was in illegal possession of the Government land when the said Godhu Krishnani reported the matter to the authorities. Therefore, there is no merit in the petition. Petition is dismissed with costs which we quantify as Rs. 5000/- Costs to be credited to the account of the Collector, Thane within a period of four weeks. On failure on the part of the petitioner to deposit the costs as directed by this Court, the Collector, Thane, would recover it as fine by resorting to the provisions of the Maharashtra Land Revenue Code. Rule discharged.

(J.N. Patel, J.)

(Smt. Roshan Dalvi, J.)